cases, which, it is supposed, will be cited in the entire work. We shall await the forthcoming volumes of this series with much interest.

AN EXPOSITION OF THE PRINCIPLES OF ESTOPPEL BY MISREPRESENTATION. By John S. Ewart. Chicago: Callaghan & Company. 1900. Pp. xli., 548.

This is an original and suggestive book. It displays a careful study of leading cases, an unusual ability to analyze decisions, to criticize authorities and to announce broad generalizations. That the author's conclusions are as trustworthy as they are daring is open to question. His own confidence, however, in their absolute accuracy is unbounded, reminding one not a little of Sidney Smith's remark, that he wished he was as sure of anything as Tom Macaulay was of everything.

The readers of this book will agree with Mr. Ewart, that the law of estoppel, as set forth by him, is very modern; so modern, in fact, as to raise serious doubts whether it yet exists. Certainly no one can peruse this work without being convinced that neither any judge nor any other writer has discovered the true principles of estoppel, if Mr. Ewart has set them forth here. Every statement of those principles by his predecessors has been wofully inadequate or positively erroneous. And yet, the learned author is able to quote sentences or paragraphs from their writings in support of almost every proposition which he lays down. Indeed, the deftness with which he weaves these quotations into the fabric of his argument is one of the striking characteristics of the book. The force and smoothness of that argument, we have to confess, swept us with it for some time. Perhaps the first thing to give us pause was the author's attempt to show that every peculiarity of negotiable instruments usually ascribed to the law merchant is really an example of estoppel. He admits that the authorities are against his views. He does not hesitate to quote Lord Mansfield, Barons Pollock and Wilde, Justices Williams and Byles, Lord Herschell, Mr. Bigelow and Sir Frederick Pollock, with a view to writing them all down opposed to him, and egregiously mistaken. In his opinion, there is no "law of merchants, in any other sense than there is a law of financiers or a law of tailors." There is no antagonism between the principles of the law merchant and the common law, nor do the doctrines of the former constitute exceptions to those of the latter. What Lord Mansfield, Chief Justice Cockburn, Lord Blackburn and their associates on the bench and at the bar have designated as the law merchant is not a well-defined body of legal rules at all; it is but a misleading figure of speech for which the one word "estoppel" should be substituted.

This being granted, it follows that every such statement as this: "The law merchant validates in the interest of commerce a transaction which the common law would declare void for want of title or authority," is erroneous, and that every decision based upon the doctrine that negotiable instruments are governed by different rules from those applicable to non-negotiable writings

is unsound. Young *v.* Grote,[1] "that fount of bad argument," as Lord Esher styled it, is repeatedly cited and approved by Mr. Ewart, while the latest decision of the House of Lords, dealing with estoppel by negligence,[2] is criticised without mercy. It is not strange that the author disapproves of this decision, although the distinguished judges who rendered it were unanimous in their conclusions and entirely in accord in their reasoning. He is bound to consider it erroneous or to modify one of his leading propositions, which he states in the following form: "The person putting in circulation a bill of exchange owes a duty to all parties to the bill to take reasonable precautions against the possibility of fraudulent alterations of it." In the case just referred to, the House of Lords declared that such was not and ought not to be the law; that judicial authority and business usage were opposed to the imposition of any such duty, and held that one who accepted a bill for £500, with spaces in the body which made it possible for the drawer thereafter to raise the bill to £3,500, was not liable on the bill as so raised; that it was not a case of estoppel by carelessness. Said Lord Shand: "I agree with your Lordships in holding that there is no sound reason or legal principle to support the view that, on the ground of negligence, an acceptor of a bill becomes liable to a subsequent holder for a sum beyond the amount of his acceptance because the form of the document and the stamp used admit of a forgery in the hands of a dishonest person, such as occurred in this case."

Another proposition for which the learned author contends is stated as follows: "If an owner of shares will execute blank transfers of them prior to their being required, and allow them to escape, he, and not an innocent purchaser of them, ought to loose." This he declares to be the New York law, as shown by McNiel *v.* Tenth National Bank.[3] But he seems to be unaware of the later decision of the same court, in Knox *v.* Eden Musee Co.,[4] which is inconsistent with his proposition, and which explains the McNeil case as holding "that an agent to whom the owner has delivered a certificate of stock, duly indorsed for transfer, with a limited power of disposition for a special purpose, may bind the title thereto as against the true owner by transferring it to a *bona fide* transferee who has no notice of the limitations of the agent's authority." Certainly if the proposition laid down by Mr. Ewart is law, the New York Court of Appeals did not know it in 1896, nor was it known to the Supreme Judicial Court of Massachusetts in 1899, as shown by Scollans *v.* Rollins.[5]

Notwithstanding our belief that the author's views are frequently unsound, and that the book cannot be accepted as a safe exposition of the principles of estoppel, we are convinced that it is

[1] 4 Bing., 253.

[2] 1 Schofield *v.* Earl of Londesborough, (1896) A. C., 514.

[3] 46 N. Y., 325.

[4] 148 N. Y., 441.

[5] 173 Mass., 275.

worthy of the most respectful treatment; that every lawyer will profit by a careful reading of it; that it is a valuable contribution to legal learning.

Reviews to follow:

THE POLICE POWER OF THE STATE AND DECISIONS THEREON AS ILLUSTRATING THE DEVELOPMENT AND VALUE OF CASE LAW. By Alfred Russell, of the Detroit Bar. Chicago: Callaghan & Co. 1900. pp. xvii, 204.

PROBATE REPORTS ANNOTATED. Vols. IV and V. New York: Baker, Voorhis & Co. 1900. pp. xxxiii, 767. 1901. pp. xxxix, 774.

AN EPITOME OF ROMAN LAW. By W. H. Hastings Kelke, M. A. London: Sweet & Maxwell, Limited. 1901. pp. vi, 268.

AN EPITOME OF LEADING CASES IN EQUITY. Founded on White and Tudor's Selection. By W. H. Hastings Kelke, M. A. London: Sweet & Maxwell, Limited. 1901. pp. xx, 240.

A SELECTION OF CASES ON THE LAW OF INSURANCE. Edwin H. Woodruff. New York: Baker, Voorhis & Company. 1900. pp. xiii, 591.

THE CONSTITUTIONAL HISTORY OF THE UNITED STATES. By Francis Newton Thorpe. Chicago: Callaghan & Co. 1901. pp. Vol. I, xxi, 595; Vol. II, xix, 685; Vol. III, xvi, 718.

A SELECTION OF CASES AND STATUTES ON THE PRINCIPLES OF CODE PLEADING, with notes. By Charles M. Hepburn, of the Cincinnati Bar. Cincinnati: W. H. Anderson & Co. 1901. pp. xxxvi, 651.

A TREATISE ON CANADIAN COMPANY LAW. By W. J. White, Q. C., assisted by J. A. Ewing, B. C. L. Montreal: C. Theoret. 1901. pp. xxiii, 708.

DIGEST OF THE CODE OF CIVIL PROCEDURE. Being a synopsis of the Code. By Charles W. Disbrow, of the New York Bar. Albany: Matthew Bender. 1901. pp. 151.

FALSTAFF AND EQUITY: An interpretation. By Charles E. Phelps. Boston and New York: Houghton, Mifflin & Co. 1901. pp. xvi, 201.

A COMPILATION OF THE BAR EXAMINATION QUESTIONS OF THE STATE OF NEW YORK SINCE 1896, WITH ANSWERS, REFERENCES AND NOTES. Edited by Wilson B. Brice. Albany: Matthew Bender. 1901. pp. 229.

THE LIABILITY OF MUNICIPAL CORPORATIONS FOR TORT. Treating fully Municipal Liability for Negligence. By Waterman L. Williams, A. B., LL.B., Author of Statutory Torts in Massachusetts. Boston: Little, Brown & Co. 1901. pp. xxxix, 345.

COMMENTARIES ON THE LAW OF NEGLIGENCE IN ALL RELATIONS. [Including a complete Revision of the Author's previous works on the same subject.] By Seymour D. Thompson, LL.D. Vol. II. Indianapolis: The Bowen-Merrill Co. 1901. pp. li, 1134.

SELECTED CASES ON THE LAW OF SALES OF PERSONAL PROPERTY. Arranged to accompany Burdick's Law of Sales. By Francis M. Burdick, Dwight Professor of Law in Columbia University School of Law. Second Edition. Revised and enlarged. Boston: Little, Brown & Co. 1901. pp. xiii, 792.